

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

CNSP, INC., d/b/a NMSURF, et al.,

Plaintiffs,

v.

Civ. No. 17-827 VJ/KRS

CITY OF SANTA FE,

Defendant.

ORDER REGARDING PARTIES' JOINT STATUS REPORT

THIS MATTER is before the Court on the parties' Joint Status Report, (Doc. 46), filed July 10, 2024. On April 9, 2018, the judge who was presiding in this case entered a Memorandum Opinion and Order on Defendant's Motion to Dismiss, declining to exercise jurisdiction in this matter pending resolution of the parallel state court proceedings in *City of Santa Fe v. Catanach*, D-101-CV-201601719, and staying this case. (Doc. 22).¹ Since that Order was entered, the parties have filed periodic Joint Status Reports regarding the status of the state court proceedings and requesting that these proceedings remain stayed until the state court proceedings are resolved. *See* (Docs. 33, 35, 36, 38, 40, 42, 44).

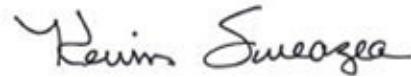
In their latest Joint Status Report, the parties state that on April 25, 2024, the state district court ruled in favor of the City of Santa Fe on the remaining claim, and Plaintiff NMSurf appealed that decision to the New Mexico Court of Appeals. (Doc. 46). The parties state they "differ on whether this case should remain stayed." *Id.* at 1. Plaintiff NMSurf states it "seeks to reactivate this federal case" to pursue a claim that it contends is different from the issue currently on appeal in the underlying state court proceeding. *Id.* at 2. Plaintiff "suggests that the stay in

¹ The Tenth Circuit Court of Appeals affirmed the presiding judge's Order on October 17, 2018. *See* (Doc. 30) (Mandate issued by the Tenth Circuit Court of Appeals on November 8, 2018).

this case be lifted, that Plaintiff be permitted to proceed with a motion to amend the complaint, followed by resolution of the City's 2017 motion to dismiss." *Id.* Defendant, however, states the issues in this case have been decided by the state court, and "maintains that the Federal Court action should continue to be stayed pending appeal" of the state court decision. *Id.* at 3.

Because this case was stayed pending resolution of the parallel state court proceedings and those proceedings are ongoing, the Court declines to lift the stay. Plaintiffs may file a motion with the Court seeking relief relating to the stay. *See* Fed. R. Civ. P. 7(b)(1) ("A request for a court order must be made by motion.").

IT IS SO ORDERED.

A handwritten signature in black ink, reading "Kevin Sweazea". The signature is written in a cursive, flowing style. The first name "Kevin" is written in a smaller, more compact script, while "Sweazea" is written in a larger, more expansive script with a long, sweeping tail on the final letter.

KEVIN R. SWEAZEA
UNITED STATES MAGISTRATE JUDGE